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REMARKS

In view of the following discussion, the Applicant submits that none of the claims now pending in the application are non-enabling, anticipated, or obvious under the respective provisions of 35 U.S.C. § 112, §102, and §103. Thus, the Applicant believes that all of these claims are now in allowable form.

It is to be understood that the Applicant, does not acquiesce to the Examiner's characterizations of the art of record or to Applicant's subject matter recited in the pending claims. Further, Applicant is not acquiescing to the Examiner's statements as to the applicability of the prior art of record to the pending claims by filing this Response.

Applicant has reviewed the Examiner's Detailed Action, in particular the response to arguments noted in sections 1 and 2 of the Final Office Action, but is still not in agreement with the Examiner's interpretation of the art in view of the pending claims. Applicant does respectfully thank the Examiner for clarification of the language used in his prior Office Action so as to make clear the issues that the Examiner still considers important to the patentability of the subject application; however, it is respectfully submitted that there is still a fundamental lack of teaching in the cited references and that such references either alone or in combination still do not make the subject invention obvious. Details of the Applicant's position regarding these issues are detailed below.

Additionally, Applicant gratefully acknowledges the Examiner's indication of allowable material with respect to objected to claims 6-9, 13, 14 and 18. However, no specific action is taken with respect to these claims at this time in view of further prosecution of the independent claims from which these claims depend.

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Rejection Of Claims Under 35 U.S.C. §103(a)

The Examiner has rejected claims 1-5, 10-12 and 15-17 under 35 U.S.C. §103 as being obvious and unpatentable over US Patent No. 6,172,963 issued January 9, 2001 to Larsson et al. (hereinafter Larsson) in view of US Patent No. 5,978,359, issued November 2, 1999 to Caldara, et al. (hereinafter Caldara). For sake of brevity, the Examiner's entire argument will not be repeated herein as it has been specifically stated by the Examiner and repeated by the Applicant in previous communications therebetween. Simply stated, the Examiner concludes that it would have been obvious to a person of ordinary skill in the art to use the feedback message of Caldara in combination with the credit-based flow control system of Larsson to provide a switch that selectively sends data from a first stage of input ports to a second stage of output ports in accordance with the fullness or availability of each output buffer. The rejection is respectfully traversed.

In response, it is respectfully submitted that there are aspects of Caldara that are fundamentally inopposite to the subject invention that do not lend the reference to combination with Larsson (or any other primary reference) to arrive at the subject invention. For example, the ACCEPT/REJECT bit of Caldara is sent to the input buffers as a warning to halt further transmission when a certain fullness criteria in the output buffers is reached. This is not how the subject invention works, so this part of Caldara cannot be used to show obviousness to the token bit of the subject invention. Specifically, the ACCEPT/REJECT bit (feedback message 30) is sent upon a specific REQUEST message (36) being sent from the input buffers to the output buffers in Caldara prior to transmission of the cell (data packet) (Col. 5, lines 53-63). Therefore, the methodology of Caldara is completely inopposite to the subject invention and the claims as recited. For example, Claim 10 reads:

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10. An adaptive filtering method for controlling traffic flow in a multi-stage, multi-dimensional, switched network, comprising:
notifying a plurality of first stage port processors in response to receiving a data packet from one of the plurality of first stage port processors; and
updating grant credits associated with said one of the plurality of first stage port processors and one or more neighboring first stage port processors in response to the notifying.

The first step of notifying is performed in response to receiving a data packet...Caldara sends a feedback message in response to a request, not a data packet. Accordingly, Caldara is teaching a two-step process to send a packet, (1) ask if it's "OK" to send and (2) send if the answer is "YES". This plainly teaches away from the invention as such a system adds to the undesirable aspects of switch latency in complex systems (see Applicant's background). The Examiner reminded the Applicant that "(T)he use of patents as references is not limited to what the patentees describe as their own inventions or to the problems with which they are concerned. They are part of the literature of the art, relevant for all they contain." *In re Heck*, 699 F.2d 1331, 1332-33, 216 USPQ 1038, 1039 (Fed. Cir. 1983) (quoting *In re Lemelson*, 397 F.2d 1006, 1009, 158 USPQ 275, 277 (CCPA 1968)). Applicant concurs with the Examiner in this respect and further reminds the Examiner that "(I)t is impermissible ... to pick and choose from a reference only so much of it as will support a conclusion of obviousness to the exclusion of other parts necessary to a full appreciation of what the reference fairly suggests to one skilled in the art." *Bausch & Lomb, Inc. v. Bames-Hind/Hydrocurve, Inc.*, 230 U.S.P.Q. 419, 420 Fed. Cir. 1986). Further, the courts have long cautioned that consideration must be given "where the references diverge and teach away from the claimed invention." *Akzo N.V. v. International Trade Commission*, 1 U.S.P.Q. 2d 1241, 1246 (Fed. Cir. 1986). Applicant has continued to show that the totality of the teachings in Caldara teach away from the subject invention. Hence, the Examiner's offered motivation for combining to provide efficient flow control and avoid cell loss is completely

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devoid of substance. The second step of the subject invention (updating) occurs in response to the notifying. Since Caldara's notifying is not performed in the claimed manner, neither can the updating in response thereto nor a suggestion of same be made.

The Examiner continues to offer that it is obvious that some component must be present in Caldara to count the number of cells in the output buffers and compare them to a threshold level in order to provide the functionality disclosed in the Examiner-cited passage of Caldara and that such component would meet the limitation of a statistic block of the subject invention. However, the statistic block of the subject invention functions by "transmitting the token bit in response to a second stage port processor associated with the statistics block receiving a data packet from one of the plurality of the first stage port processors" per Claim 1. As discussed earlier, this sequence of events does not happen in Caldara; hence, the statistics block offered by the Examiner is not suggestive of the claimed material. The details of the how this occurs is presented in at least Page 4, lines 10-24 of the subject application (Applicant is not attempting to read such details into the claim, but merely showing the distinctions between the invention and the reference). Specifically, no REQUEST is necessary in the subject invention. The adaptive abilities of the switch (by virtue of the single token bit sent back to the first stage from the second stage in response to a received data packet at the second stage) provide an improvement not found in the art. Accordingly, any combination of Larsson with Caldara results in at least two messages having to be sent through the switch (the REQUEST and the actual DATA) which teaches away from the subject invention and fails to provide the discussed advantages.

Similar arguments and conclusions are drawn with regard to the Independent method Claim 10. Specifically, the method recites the step of notifying a plurality of first stage port processors in response to receiving a data packet from one of the plurality of first stage port processors and not in response to a request message (which does not include data) followed by a corresponding

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feedback message in order to practice the subject method. While Larsson attempts to disclose some form of "giving credit" in a data transmission system, it focuses on the aspects of "over-allocation" that allows the input ports to always request to send more cells than the respective output ports can process without placing any cell in its output buffer (column 4 lines 56 through 65). This type of system is not as sophisticated as the subject invention; hence, would not suggest to one skilled in the art to control and manage information traffic flow in the manner claimed. Accordingly, it is respectfully submitted that the combination of Caldara and Larsson fail to suggest the invention recited in independent method Claim 10.

As such, the Applicant submits that claims 1 and 10 are not obvious and fully satisfy the requirements under 35 U.S.C. § 103 and are patentable thereunder. Furthermore, claims 2-9, 11, 12 and 15-17 depend, either directly or indirectly, from independent claims 1 and 10 and recite additional features thereof. As such, and for at least the same reasons discussed above, the Applicant submits that these dependent claims also fully satisfy the requirements under 35 U.S.C. § 103 and are patentable thereunder. Therefore, the Applicant respectfully request that the rejection be withdrawn.

Conclusion

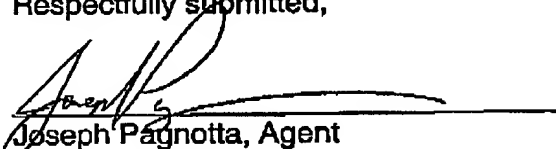
Thus, the Applicant submits that claims 1-18 are in condition for allowance. Furthermore, the specification has been amended as requested by the Examiner. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

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If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Mr. Eamon J. Wall at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

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CERTIFICATE OF FACSIMILE TRANSMISSION under 37 C.F.R. §1.8

I hereby certify that this correspondence is being transmitted by facsimile under 37 C.F.R. §1.8 on June 24, 2004 and is addressed to MAIL STOP AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, Facsimile Number: 703-872-9306.

Signature

Janet Kondrk

June 24, 2004
Date of Signature

Janet Kondrk
Type or print name of person signing certification